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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed November 2, 2004. In the Office Action, the Examiner notes that claims 1-13, 16-18 and 21-24 are pending, of which claims 1-13, 16-18 and 21-24 stand rejected. The Examiner's attention is directed to the previous Office Action response in which the Applicants cancelled claim 17 and to the Preliminary Amendment where the Applicants added new claim 29. Accordingly, it is the Applicants belief that claims 1-13, 16, 18, 21-24, and 29 are presently pending in the application. The Applicants thank the Examiner for confirming the above pending of the claims in this application with the Applicants' attorney, Steven M. Hertzberg, on January 12, 2005.

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, the Applicants believe that all of these claims are now in allowable form.

REJECTIONS

35 U.S.C. §103

The Examiner has rejected claims 1-13, 16-18 and 21-24 under 35 U.S.C. §103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 6,539,548, hereinafter "Hendricks") in view of Alonso et al. (U.S. Patent No. 6,184,873, hereinafter "Alonso") and further in view of Eyer et al. (U.S. Patent No. 6,160,545, hereinafter "Eyer"). The Applicants respectfully traverse the rejection.

Applicants' amended independent claim 1 recites:

"A method for targeting programming according to subscriber preferences, comprising:

propagating, via a forward application transport channel (FATC), a plurality of video streams representing respective pages of an interactive program guide (IPG), each IPG page depicting programming associated with a respective pair of channel groups and time slots;

polling a plurality of terminals for the trend data;

receiving, via a back channel, subscriber selections associated with at least one IPG page;

determining trend data associated with accumulated subscriber selections; and

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adapting at least one IPG page in response to said determined trend data." (emphasis added).

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) (emphasis added). The Hendricks, Alonso and Eyer references alone or in combination fail to teach the Applicants' invention as a whole.

The Hendricks reference discloses

The program control information signal generated by the Operations Center 202 provides data on the scheduling and description of programs via the network controller 214 or, in an alternate configuration, directly to the set top terminal 220 for display to the subscriber. In the preferred embodiment, the program control information signal 276 is stored and modified by the network controller 214 and sent to the set top terminal 220 in the form of a set top terminal control information stream (STTCIS). This configuration accommodates differences in individual cable systems and possible differences in set top converter or terminal devices. (See Hendricks, col. 18, lines 39-51).

Nowhere in the Hendricks reference is there any teaching or suggestion of the Applicants' invention, which discloses "adapting at least one IPG page in response to said determined trend data." Support for the Applicants' invention may be found in the Applicants' specification where "the head-end sends a request to the terminal for the collected trend data" and "[i]n response, the terminal reports the collected data back to the head-end." (See Application, page 23, lines 10-13).

Furthermore, the Alonso and Eyer references alone or in combination fail to bridge the substantial gap as between the Hendricks reference and the Applicants' invention. Specifically, the Alonso reference merely discloses a method of accessing information from a computer network, such as a TCP/IP network, using a cable television system or a video on demand system. (See Alonso, col. 1, lines 64-67). Alonso uses the back channel to allow set top terminals to send requests for

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audiovisual programming or world wide web. (See Alonso, col. 4, lines 29-37). Nowhere in Alonso is there any teaching or suggestion of "adapting at least one IPG page in response to said determined trend data."

Eyer discloses

In a preferred embodiment, all regional IPG data is provided within one PID. Hardware filtering is used in the IRD to filter by IPG region. Second-level filtering in firmware is employed to delete IPG data corresponding to channels not available to the IRD, thus saving RAM. For IRDs with access to cable-delivered programming, the list of available cable channels (e.g., the cable channel map) is used for this firmware filtering. Cable channel maps are delivered via the satellite path, and are addressed by group addressing methods to IRDs associated with particular IRD regions. (see Eyer, column 10, lines 52-62)

Nowhere in the Eyer reference is there any teaching or suggestion of adapting at least one IPG page in response to said determined trend data.

Even if the Hendricks, Alonso, and Eyer references could somehow be operably combined (and Applicants submit that they cannot be operably combined) the combination would merely provide an Operations Center for organizing and packaging television programs for transmission in a television delivery system capable of allowing subscribers to send requests via a back channel on the set top terminals for audiovisual programming or world wide web, maintaining viewer information, such as demographics and programs viewed, and deleting IPG data corresponding to channels not available to the IRD.

The combination of the three references does not teach or suggest the Applicant's claim of "adapting at least one IPG page in response to said determined trend data." That is, the mere fact that the Eyer reference discloses deleting IPG data corresponding to channels not available to the IRD, does not imply, teach, or suggest that the at least one IPG page is adapted in response to the determined trend data. In other words, nowhere in the combined references is there any teaching or suggestion of "adapting at least one IPG page in response to said determined trend data". Therefore, the combination of Hendricks, Alonso, and Eyer fails to teach or suggest Applicants' invention as a whole.

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As such, the Applicants submit that claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-13, 16-18, 21-24, and 29 depend, either directly or indirectly, from independent claim 1 and recite additional features thereof. As such, and at least for the same reasons as discussed above, the Applicants submit that these dependent claims also fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the Examiner's rejection be withdrawn.

THE SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to the Applicants' disclosure than the primary references cited in the Office Action. Therefore, the Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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CONCLUSION

Applicants believe all the claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of an adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. or Steven M. Hertzberg, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

2/1/05

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